

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DONALD COLE BURCHETT,

Plaintiff,

v.

KATHLEEN T. JOHNSON,

Defendant.

Case No. C05-5660FDB

ORDER ADOPTING
REPORT AND
RECOMMENDATION

The Court, having reviewed Plaintiffs' complaint, the Report and Recommendation of Magistrate Judge J. Kelley Arnold, objections to the Report and Recommendation, if any, and the remaining record, does hereby find and ORDER:

- (1) The Court adopts the Report and Recommendation;
- (2) This action is **DISMISSED WITHOUT PREJUDICE** for the reasons outlined in the Report and Recommendation. Plaintiff may not proceed with a civil rights action if a ruling in his favor would imply his current confinement is unlawful.
- (3) Clerk is directed to send copies of this Order to plaintiff, and to the Hon. J. Kelley Arnold.

DATED this 23rd day of February 2006.


FRANKLIN D. BURGESS
UNITED STATES DISTRICT JUDGE